

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CLARENCE ADAMS	:	
Petitioner,	:	CIVIL ACTION
v.	:	
	:	NO. 08-CV-3403
LOUIS FOLINO, et. al.	:	
Respondents	:	

ORDER

AND NOW, this 10th day of September, 2010, upon consideration of the Petition for the Writ of Habeas Corpus (the “Petition”) (Docket No. 1), Petitioner’s Brief in Support of the Petition (Docket No. 10), and the Report and Recommendation filed by United States Magistrate Judge M. Faith Angell (Docket No. 17), and after an independent review of the pertinent record, it is ORDERED that:

1. The Report and Recommendation of Magistrate Judge Wells is APPROVED and ADOPTED. The Court agrees with the Report and Recommendation that Petitioner has procedurally defaulted on his first and fifth claims and has not met his burden of establishing circumstances to excuse this default. The Court also agrees with the Report and Recommendation that Petitioner is not entitled to habeas relief on his second and third claims because the Superior Court’s determination on such claims, when evaluated objectively on the merits, are neither contrary to, nor an unreasonable application of the federal standard for establishing ineffective assistance of counsel under Strickland v. Washington, 466 U.S. 668 (1984). Finally, the Court agrees with the Report and Recommendation that Petitioner is not entitled to habeas relief on his fourth claim because the Superior Court’s analysis of such claim was conducted under Pennsylvania law and concluded that the prior inconsistent statements were

properly admitted under state law, thereby precluding federal review, as this court may not reexamine state court findings where such findings rest on adequate and independent state law grounds. Sistrunk v. Vaughn, 96 F.3d 666, 673 (3d Cir. 1996).

2. The Petition for the Writ of Habeas Corpus (Docket No. 1) filed pursuant to 28 U.S.C. § 2254 is DENIED and DISMISSED without an evidentiary hearing.
3. All outstanding motions are DENIED as moot.
4. Petitioner has neither shown a denial of a constitutional right, nor established that reasonable jurists would disagree with this Court's disposition of his claims. Consequently, a certificate of appealability is DENIED.
5. The Clerk's Office shall close this case.

BY THE COURT:

/s/ Joel H. Slomsky, J.
JOEL H. SLOMSKY, J.